



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

February 23, 2021

Via Email

Mr. Doug Peterson
Attorney General of Nebraska
2115 State Capital
Lincoln, NE 68509

Dear Attorney General Peterson:

On November 16, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the Nebraska Attorney General's enforcement of the Nebraska excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of the Nebraska excavation damage prevention law is "adequate."

PHMSA evaluates a state's excavation damage prevention enforcement program based on the criteria detailed in 49 CFR 198.55 and scores the state's compliance with those criteria. Although the Nebraska Attorney General's enforcement program was deemed "adequate" for calendar year (CY) 2020, this is not a finding by PHMSA that the state program has no room to further improve the program's effectiveness. Accordingly, PHMSA would like to bring to your attention an area of improvement involving the requirements of 49 CFR 198.55(a)(3). This is one of the evaluation criteria for a state's program and assesses, in part, whether the state is "assessing civil penalties and other appropriate sanctions for violations at levels sufficient to deter noncompliance." In CY 2019, Nebraska's gas distribution operators reported a total of 591 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA. Based on the information gained during our evaluation, no reports of violations or damages were submitted as complaints to the Nebraska Attorney General in 2019. However, two complaints submitted prior to 2019 led to civil penalties in 2019. PHMSA understands the issue of the Nebraska Attorney General not being forwarded reports of violations or damages in CY2019 has been corrected.

PHMSA appreciates your dedication to safety. As you are aware, excavation damage continues to be a leading cause of pipeline failures, some of which have resulted in fatalities, serious injuries, and environmental damage. Nationwide statistics show that effective enforcement of

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state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

Should you or your staff have any questions regarding this letter, please contact Annmarie Robertson, PHMSA Senior Program Manager, at (317) 964-1670 or by email at annmarie.robertson@dot.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Massoud Tahamtani', with a long, sweeping horizontal line extending to the right.

Massoud Tahamtani
Deputy Associate Administrator, Policy and Programs
Office of Pipeline Safety

cc: Mr. Christopher Cantrell, Nebraska State Fire Marshal